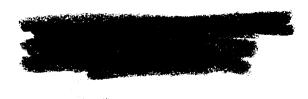


DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JLP:ddi

Docket No: 3267-99 23 November 1999





This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUMED memorandum 7220 SER 527/3133 of 13 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER Executive Director



DEPARTMENT OF THE NAVY BUREAU OF MEDICINE AND SURGERY 2300 E STREET NW WASHINGTON DC 20372-5300

7220 IN REPLY REFER TO Ser 527/99-3133 13 Oct 99

From: Chief, Bureau of Medicine and Surgery To: Board for Correction of Naval Records

Subj: ADVISORY OPINIONS ICO

Ref:

(a) SECNAVINST 7220.75C

(b) CO Oak Harbor Peer Review Panel Hearing ICO CDR C. J. Hockett of 29 Oct 99

Encl:

- (1) BCNR File ICO CDR Hockett
- (2) CO NAVHOSP Oak Harbor ltr 6320.67 Ser 0903/1074 of 10 Jun 97
- (3) CO NAVHOSP Oak Harbor ltr 6320 Ser 0905/1246 of 07 Jul 97
- (4) CO NAVHOSP Oak Harbor ltr 6320 Ser 0905/1357 of 30 Jul 97
- (5) CO NAVHOSP Oak Harbor ltr 6320 Ser 0000/1438 of 22 Aug 97
- (6) CO NAVHOSP Oak Harbor ltr 6320 Ser 0000/1423 of 09 Dec 97
- (7) Chief BUMED ltr 6320/C97-017 Ser 03L1/0038 of 19 Jun 98
- (8) Endorsement page of Renewal of Active Staff Appointment with Clinical Privileges
- 1. Enclosure (1) has been carefully reviewed, and is returned strongly recommending disapproval with the following comments.
- 2. Reference (a) states, "that a commanding officer must terminate or deny Additional Special Pay (ASP) or Incentive Special Pay (ISP) when an officer's clinical privileges have been reduced below the level of full core privileges for Primary Care Medical Officers (PCMO) through adverse credentials action". The reference also states, "that the termination or denial must be for a period of at least 1 full year to allow adequate time to evaluate performance".
- 3. Enclosures (2) through (6) indicate that Commander Hockett's clinical privileges were **reduced** in one form or another from June 10, 1997 through September 15, 1998. Commander Hockett has a copy of reference (b), in which the Commanding Officer, Naval Hospital Oak Harbor directed that a peer review panel meet to hear Commander Hockett's case on October 27, 1998. The panel recommended that Commander Hockett's privileges be restored with **limitations**, therefore, making him ineligible for an ASP/ISP contract.

Subj: ADVISORY OPINIONS ICO

- 4. Commander Hockett appealed the actions taken by his commanding officer to Chief, Bureau of Medicine and Surgery. As a result of his appeal it was ruled that the Commanding Officer did not abuse his discretion by limiting Commander Hockett's privileges (enclosure (7)), and that this ruling constituted **final** action on his appeal. This action closes any request for ASP/ISP during this timeframe.
- 5. In accordance with reference (a), the Commanding Officer, Naval Hospital Oak Harbor, should have reported by letter to MED-527, his denial of Commander Hockett's ASP/ISP. This letter would have notified BUMED that he was not eligible for an ISP/ASP until after the one-year evaluation of performance period. Commander Hockett was granted renewal of his active staff appointment with clinical privileges on September 16, 1998, making him eligible for an ASP/ISP on September 17, 1999.
- 6. was transferred to his present command, and because this information was not communicated in any formal manner to his new command, a request for retroactive ASP/ISP was favorably endorsed and forwarded to BUMED where it was approved on April 22, 1999 with an effective date of January 20, 1999 for both pays. Commander Hockett's effective date should have been September 17, 1999 rather than January 20, 1999.
- 7. Your point of contact is Lieutenant Commander J. A. Bradley, MSC, USN, who may be reached at 202-762-3363, DSN 762-3363, FAX (202) 762-3367, DSN 762-3367, or E-mail jabradley@us.med.navy.mil.

E. QUISENBERRY By direction

Copy to:
NAVMEDCEN Portsmouth